

### **REMARKS**

This amendment is in reply to the final Office Action dated June 7, 2010. After its entry, claims 70, 72-78, 82-86, 91, 96-100, and 103 are pending in this application and subject to examination. New claim 103 is added. Support for new claim 103 is found in the claims as originally filed and at page 7, lines 5-13, of the present specification. No new matter is added.

Reconsideration of the application as amended is respectfully requested in view of the following remarks.

#### **Rejection Under 35 U.S.C. § 103(a)**

Claims 70, 72, 76, 78, 82, 85, 86, 96 and 98-100 have been rejected under 35 USC 103(a) as being unpatentable over the combination of Comai et al. (US 4,218,443) in view of Guegler et al. (US 2002/0052034), Nozaki et al. (Clin. Chem. 30(5): 748-751), Taber's Medical Dictionary, and Wang et al. (Effects of albumin and apolipoprotein C-II on the acyl-chain specifically on lipoprotein lipase catalysis, Journal of Lipid Research., vol. 34, No. 12, pp. 2091-2098, 1993).

In response, Applicants reiterate the arguments presented in the amendment submitted November 13, 2009, which are reproduced below:

Claims 70, 99 and 100 claim, *inter alia*, "a fatty acid-acceptor substance or a fatty acid-sequestering substance which avoids or limits the blockage of the enzymatic activity of the lipoprotein lipase for a period of time sufficient for releasing at least in part nonesterified fatty acid from the triacylglycerol."

In the rejection, Guegler is cited for the teaching of establishing that lipase, and lipoprotein lipase are central to lipolysis and control the balance of free fatty acids in adipose tissue. As described in the present application, inhibitors are "described in the scientific literature for being inhibitors which act by competition with the substrate of the enzyme." Guegler is no different, teaching in paragraph [0067] of the published application that "[t]he

proteins of the present invention are also useful in competition binding assays." The claimed invention blocks competition. That is the claimed invention "avoids or limits the blockage of the enzymatic activity." Guegler uses competition binding assays; that is, the blockage of a competition, essentially as claimed, would render Guegler unsuitable of the stated intended purpose. Therefore, the proposed combination of Guegler together with the other cited references is not believed to be proper. Moreover, Guegler fails to teach or suggest the claimed invention of avoiding or limiting the blockage of the enzymatic activity of the lipoprotein lipase.

Claims 72, 76, 78, 82, 85, 86, 96 and 98 depend from Claim 70 and are believed to be allowable for at least the reasons given for Claim 70. Reconsideration of the rejection is respectfully requested.

Claims 70, 72, 76-78, 82, 85, 86, 96 and 98-100 have been rejected under 35 USC 103(a) as being unpatentable over the combination of Comai in view of Guegler, Nozaki, Taber's Medical Dictionary, and Wang as applied to Claims 70, 72, 76, 78, 82, 85, 86, 96 and 98-100, and further in view of Vanio et al. (Inhibition of Lipoprotein Lipase by Benzene Boronic Acid Effect of Apolioprotein C-II, *Biochimica et Biophysica Acta*, 711, 386-390, 1982).

The proposed combination of references fails to overcome the deficiencies of Guegler noted above. That is, Guegler uses competition binding assays. The blockage of a competition, essentially as claimed, would interfere with the competition binding assays of Guegler. Therefore, the proposed combination of Guegler together with the other cited references is not believed to be proper – the proposed combination would render Guegler unsuitable for its intended use. Moreover, Guegler fails to teach or suggest the claimed invention of avoiding or limiting the blockage of the enzymatic activity of the lipoprotein lipase.

Claims 72, 76-78, 82, 85, 86, 96 and 98 depend from Claim 70 and are believed to be allowable for at least the reasons given for Claim 70. Reconsideration of the rejection is respectfully requested.

Claims 70, 72-78, 82-86, 96 and 98-100 have been rejected under 35 USC 103(a) as being unpatentable over the combination of Comai in view of Guegler, Taber's Medical

Dictionary, Wang and Vanio as applied to Claims 70, 72, 76-78, 82, 85, 86, 96 and 98-100, and further in view of Kobayashi (US 3,875,007).

The proposed combination of references fails to overcome the deficiencies of Guegler noted above. That is, Guegler uses competition binding assays. The blockage of a competition, essentially as claimed, would interfere with the competition binding assays of Guegler. Therefore, the proposed combination of Guegler together with the other cited references is not believed to be proper – the proposed combination would render Guegler unsuitable for its intended use. Moreover, Guegler fails to teach or suggest the claimed invention of avoiding or limiting the blockage of the enzymatic activity of the lipoprotein lipase.

Claims 72-78, 82-86, 96 and 98 depend from Claim 70 and are believed to be allowable for at least the reasons given for Claim 70. Reconsideration of the rejection is respectfully requested.

### **New Claim 103**

Applicants submit that, like claim 91, none of the cited references, either alone or in combination, teach or suggest the claimed method “wherein said extract is selected from the group consisting of an extract of fucus, an extract of dulse palmaria, palmate, an extract of wheat proteins, an extract of spiruline, an extract of honeysuckle, an extract of St. John’s wort; an extract of rice proteins, an extract of liana, an extract of potato, an extract of shiitake, an extract of fresh salmon, a extract of pumpkin, and an extract of lemon.” As such, Applicants submit that new claim 103 is novel and non-obvious over any of the cited references and any combination thereof and respectfully request its allowance.

In view of the foregoing amendment and remarks, Applicants believe the pending application is in condition for allowance.

Payment in the amount of \$2,540.00 to cover the fees required by 37 C.F.R. §§ 1.17(e) and 1.17(a)(4) for a Request for Continued Examination and four-month extension of time. Applicants believe no additional fees are due. However, if a fee is due, the Director is hereby authorized to charge our Deposit Account No. 03-2775, under Order No. 17587-00018-US, from which the undersigned is authorized to draw.

Dated: May 9, 2011

Respectfully submitted,

Electronic signature: /Eamonn P. Morrison/  
Eamonn P. Morrison  
Registration No.: 55,841  
CONNOLLY BOVE LODGE & HUTZ LLP  
1007 North Orange Street  
P.O. Box 2207  
Wilmington, Delaware 19899  
(302) 658-9141  
(302) 658-5614 (Fax)  
Attorney for Applicants